

## REMARKS

Claims 1, 3-4, 7-9, 13-16, 18-30, 33-43, 45-49, 51-55, and 57-75 are pending. The Office Action rejects Claims 1, 3-4, 7-9, 13-16, 18-30, 33-43, 45-49, 51-55, and 57-75 under 35 U.S.C. § 103(a) as being unpatentable over EP Pat. App. No. 1006695 to Forssell (“Forssell”) in view of U.S. Pat. No. 6,765,188 to Becker et al. (“Becker”).

Applicants have made clarifying amendments to several claims as set forth in the above listing of amended claims in order to more particularly and distinctly claim various embodiments of the invention. These amendments are fully supported by the originally filed specification. New Claims 70 and 73 have been canceled. In light of the subsequent remarks, Applicants respectfully submit that the claims are in condition for allowance.

### The Rejection of Independent Claims 1, 8, 14, 20, 31, 33, 38, 39, 44, and 45 under § 103(a) is Overcome

The Office alleges that each of independent Claims 1, 8, 14, 20, 31, 33, 38, 39, and 44 are unpatentable over the combination of Forssell and Becker. While Applicants respectfully disagree with the Office, Applicants have clarified Claims 1, 8, 14, 20, 31, 33, 38, 39, and 44 to further recite the feature of determining, based at least in part on the coded value, whether the length of the data queue exceeds a segment rate. Claims 1, 8, 14, 20, 31, 33, 38, 39, and 44 have additionally been amended to clarify that allocating communications resources comprises allocating *additional* communication resources in an instance in which it is determined that the length of the data queue exceeds the segment rate.

These features added to Claims 1, 8, 14, 20, 31, 33, 38, 39, and 44 are similar to those recited by now-canceled Claim 70. While Applicants find the rejection of Claim 70 to be very confusing, as the Office has treated Claims 66-75 collectively in spite of the very distinct features recited in respective ones of Claims 66-75, Applicants understand the Office to have admitted that Forssell does not teach the features of Claim 70, but to

have alleged that Becker does teach the features of Claim 70. Applicants agree with the Office's position on Forssell, as Forssell clearly does not teach or suggest either determining, based at least in part on the coded value, whether the length of the data queue exceeds a segment rate or allocating additional communication resources in an instance in which it is determined that the length of the data queue exceeds the segment rate. However, Applicants disagree with the Office's position on the disclosure of Becker, as even when taken in combination with Forssell, Becker clearly fails to cure the readily apparent and admitted deficiencies of Forssell.

Referring to page 49 of the Office Action, the Office posits:  
appropriate system resources, col. 8, lines 10-17 as set forth in claim 70); which it is determined that the length of the data queue exceeds the segment rate:  
determining an amount of additional bandwidth required to meet one or more of a delay or a rate requirement for data to be sent by the first network element; and wherein allocating additional communications resources comprises allocating additional communication resources based at least in part on the determined amount of additional bandwidth, col. 8, lines 10-17 as set forth in claim 71); wherein the coded

However, col. 8, lines 10-17 of Becker merely relates the following:

In yet another embodiment, the remote unit 108 transmits a message over the reserved block 140 which indicates the amount of data queued for transmission. For example, the remote unit 108 indicates that a message has been sent over the contention-type resource 142 and that a certain amount of data remains available for transmission. The information concerning queue length can be used by the hub station 104 to allocate appropriate system resources.

Clearly, the portion of Becker on which the Office relies does not teach or suggest any of the features added to independent Claims 1, 8, 14, 20, 31, 33, 38, 39, 44, and 45. In particular, Becker does not teach or suggest determining, based at least in part on a coded value of the length of a data queue whether the length of the data queue exceeds a segment rate, as recited in amended independent Claims 1, 8, 14, 20, 31, 33, 38, 39, 44, and 45. Indeed, the cited portion of Becker does not include any mention of a segment rate or even remotely convey that the reserved block indicating the amount of data

queued for transmission conveys any data or other indication of whether the length of the data queue exceeds a segment rate and, as such, it would be impossible to modify Becker to determine whether a length of the data queue exceeds a segment rate. Since the cited portion of Becker fails to teach or suggest determining whether the length of the data queue exceeds a segment rate, it will be further appreciated that the cited portion of Becker also fails to teach or suggest allocating additional communications resources in an instance in which it is determined that the length of the data queue exceeds the segment rate.

Furthermore, no other portion of Becker cures the deficiencies of the portion of Becker on which the Office relied in rejecting Claim 70. As such, Applicants respectfully submit that Becker fails to cure the deficiencies of Forssell such that independent Claims 1, 8, 14, 20, 31, 33, 38, 39, 44, and 45 are patentably distinct from the combination for Forssell and Becker. Moreover, none of the other cited references, whether taken alone or in combination, cure the clear deficiencies of the combination of Forssell and Becker. Applicants therefore respectfully submit that independent Claims 1, 8, 14, 20, 31, 33, 38, 39, 44, and 45 are patentably distinct from the cited references, taken alone or in combination, such that the rejection is overcome. Applicants further respectfully submit that independent Claims 1, 8, 14, 20, 31, 33, 38, 39, 44, and 45 are in condition for allowance.

The Rejection of Independent Claims 15, 21, 22, 32, 46, 50, 51, 52, 56, and 57 under § 103(a) is Overcome

The Office alleges that each of independent Claims 15, 21, 22, 32, 46, 50, 51, 52, 56, and 57 are unpatentable over the combination of Forssell and Becker. While Applicants respectfully disagree with the Office, Applicants have clarified Claims 1, 8, 14, 20, 31, 33, 38, 39, and 44 to further recite that the code indicates whether the length of the data queue exceeds a segment rate. As discussed above, neither Forssell nor Becker, whether taken alone or in combination, teach or suggest including a code in a data block that indicates whether the length of a data queue exceeds a segment rate.

Accordingly, Applicants respectfully submit that independent Claims 15, 21, 22,

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32, 46, 50, 51, 52, 56, and 57 are patentably distinct from the cited combination of Forssell and Becker. Moreover, none of the other cited references, whether taken alone or in combination, cure the deficiencies of Forssell and Becker. Applicants therefore respectfully submit that independent Claims 15, 21, 22, 32, 46, 50, 51, 52, 56, and 57 are patentably distinct from the cited references, taken alone or in combination, such that the rejection is overcome. Applicants further respectfully submit that independent Claims 15, 21, 22, 32, 46, 50, 51, 52, 56, and 57 are in condition for allowance.

The Rejection of the Dependent Claims is Overcome

Because each of the dependent claims includes each of the recitations of a respective independent base claim, Applicants further submit that the dependent claims are patentably distinguishable from the cited references, taken alone or in combination, for at least those reasons discussed above. Accordingly, Applicants respectfully submit that the rejections of the dependent claims are overcome and the dependent claims are in condition for allowance.

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## CONCLUSION

In view of the amended claims and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES  
PATENT & TRADEMARK OFFICE ON July 25, 2011.